

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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### Chief Executive

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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Committee Services  
[committee.services@tmbs.gov.uk](mailto:committee.services@tmbs.gov.uk)

28 June 2016

To: MEMBERS OF THE AREA 2 PLANNING COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Area 2 Planning Committee to be held in the Civic Suite, Gibson Building, Kings Hill, West Malling on Wednesday, 6th July, 2016 commencing at 7.30 pm. Deposited plans will be available for Members' inspection for half an hour before the start of the meeting.

Yours faithfully

JULIE BEILBY

Chief Executive

## A G E N D A

### PART 1 - PUBLIC

1. Apologies for Absence
2. Declarations of Interest

3. Minutes 5 - 10

To confirm as a correct record the Minutes of the meeting of Area 2 Planning Committee held on 25 May 2016

**Decisions to be taken by the Committee**

4. Development Control 11 - 14  
Introduction and Glossary
5. TM/16/00413/FL - Land Parcel 2, Lillieburn, Leybourne 15 - 24
6. TM/16/00505/FL - Area 63, Beacon Avenue, Kings Hill 25 - 36
7. TM/15/03865/FL - Great Oaks House, Puttenden Road, Shipbourne 37 - 50
8. TM/16/00235/FL - Fairseat Farm House, Vigo Road, Fairseat 51 - 60
9. Alleged Unauthorised Development - 15/00002/COM - 65 High Street, West Malling 61 - 68
10. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

**Matters for consideration in Private**

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The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**PART 2 - PRIVATE**

12. Urgent Items

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr Mrs F A Kemp (Chairman)  
Cllr S R J Jessel (Vice-Chairman)

Cllr Mrs J A Anderson  
Cllr M A C Balfour  
Cllr Mrs S M Barker  
Cllr R P Betts  
Cllr M A Coffin  
Cllr Mrs S L Luck  
Cllr B J Luker

Cllr P J Montague  
Cllr L J O'Toole  
Cllr S C Perry  
Cllr H S Rogers  
Cllr Miss J L Sergison  
Cllr T B Shaw  
Cllr Miss S O Shrubsole

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### AREA 2 PLANNING COMMITTEE

Wednesday, 25th May, 2016

**Present:** Cllr Mrs F A Kemp (Chairman), Cllr S R J Jessel (Vice-Chairman), Cllr Mrs J A Anderson, Cllr M A C Balfour, Cllr R P Betts, Cllr M A Coffin, Cllr Mrs S L Luck, Cllr B J Luker, Cllr P J Montague, Cllr S C Perry, Cllr Miss J L Sergison and Cllr Miss S O Shrubsole

Councillors O C Baldock, N J Heslop and M Taylor were also present pursuant to Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors Mrs S M Barker, L J O'Toole, H S Rogers and T B Shaw

### PART 1 - PUBLIC

#### **AP2 16/24 DECLARATIONS OF INTEREST**

Councillor Mrs Kemp (Chairman) declared an Other Significant Interest in application TM/16/00892/RM (Little Reeds, Ford Lane, Trottiscliffe) on the grounds that she was a close neighbour to the application site. She withdrew from the meeting and the Vice-Chairman (Councillor S Jessel) chaired the Committee during consideration of this item.

For reasons of transparency, Councillor Balfour reminded the Committee that he was the Cabinet Member for Environment and Transport at Kent County Council.

#### **AP2 16/25 MINUTES**

**RESOLVED:** That the Minutes of the meeting of the Area 2 Planning Committee held on 13 April 2016 be approved as a correct record and signed by the Chairman.

### DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

#### **AP2 16/26 DEVELOPMENT CONTROL**

Decisions were taken on the following applications subject to the pre-requisites, informatives, conditions or reasons for refusal set out in the report of the Director of Planning, Housing and Environmental Health or in the variations indicated below. Any supplementary reports were tabled at the meeting.

Members of the public addressed the meeting where the required notice

had been given and their comments were taken into account by the Committee when determining the application. Speakers are listed under the relevant planning application shown below.

**AP2 16/27 TM/16/00920/FL - ABBEYFIELD GREENSTED RESIDENTIAL HOME, 16 THE ORPINES, WATERINGBURY**

Demolition of the existing Greensted Residential Care home and the erection of 51 older person's extra care units (C2 use class) with associated communal facilities, landscaping and parking at Abbeyfield Greensted Residential Home, 16 The Orpines, Wateringbury.

Members had due regard for the comments raised by the members of the public and the agent in respect of this application. After careful consideration, it was

**RESOLVED:** That the application be APPROVED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health; subject to

(1) Updating the list of approved documents as necessary

(2) Amended Condition:

3. The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle and cycle parking space has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: To ensure no adverse impact on highway safety resulting from hazardous on-street parking.

(3) Additional Informative:

11. It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary highway approvals and consents where required are obtained and that the limits of the highway boundary are clearly established in order to avoid any enforcement action being taken by the Highway Authority. The applicant must also ensure that the details shown on the approved plans agree in every respect with those approved under such legislation and common law. It is therefore important for the applicant to contact KCC Highways and Transportation to progress this aspect of the works prior to commencement on site.

[Speakers: Mr R Tripp – Watlingbury Parish Council; Mr M Cayzer, Mr Fullthorpe, Mrs Fullthorpe, Mr Clark, Mr D Martins, Mr D Mitchelmore, Mr R Bowie, Mr B Cann, Mr C Talbert, Mr P Farr and Mr Constable – members of the public and Ms E Timbers and Mr L Steer – agent and applicant]

**AP2 16/28 TM/14/02992/FL - A TO Z GEOGRAPHERS LTD, 173-199 FAIRFIELD ROAD, BOROUGH GREEN**

Demolition of the existing Geographers A-Z buildings on the site and for the erection of 41 residential units with associated car parking, access, footways, associated infrastructure works, and landscaping at A To Z Geographers Ltd, 173 - 199 Fairfield Road, Borough Green.

Members had regard to the new offer of £320,000 for off- site affordable housing or the provision of 4 units on site (3 bed houses) set out in a letter from the agent and summarised in a briefing note both circulated in advance of the meeting. The main points were also repeated in the supplementary report of the Director of Planning, Housing and Environmental Health.

After careful consideration, it was

**RESOLVED:** That the application be APPROVED, subject to:

(1) the applicant entering into a legal agreement in respect of:

- Affordable housing
- Open space provision
- Contribution to Kent County Council community facilities

(2) the submitted details, conditions, reasons and informatives set out in the main report of the Director of Planning, Housing and Environmental Health

[Speakers: Mr J Collins – agent]

**AP2 16/29 TM/16/00211/FL - BRIONNE, THE STREET, RYARSH, WEST MALLING**

Proposed demolition of existing property and erection of three detached dwellings, detached garages, new highways access plus other ancillary works. Resubmission of TM/15/02952/FL at Brionne, The Street, Ryarsh

**RESOLVED:** That the application be REFUSED for the following reason:

(1) The proposals by reason of the scale and bulk is overdevelopment and detrimental to the character and

appearance of the Conservation Area and the visual amenities of the street scene. It is thereby contrary to s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraphs 17, 57, 58, 61, 131, 132 and 133 of the National Planning Policy Framework 2012, policies CP1, CP13, P24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Managing Development and the Environmental Development Plan Document 2012.

[Speakers: Ms N Stouppa-Moss, Mr J Steel and Mr Highstead – members of the public]

**AP2 16/30 TM/16/00235/FL - FAIRSEAT FARM HOUSE, VIGO ROAD, FAIRSEAT**

Construction of flint stone and brick wall along north west side boundary at Fairseat Farm House, Vigo Road, Fairseat.

**RESOLVED:** That the application be DEFERRED for a Members' Site Inspection and to seek clarification over whether correct Certificate submitted in regard to the extent of the development.

[Speakers: Stansted Parish Council – Ms P Faulkner, Mr Everitt – on behalf of the Fairseat Village Hall Committee; Mr Pallant – member of the public and Mr R Elliot - agent]

**AP2 16/31 TM/16/00702/FL - 1A MARION COTTAGES, MAIDSTONE ROAD, WROTHAM HEATH**

Erection of 1no. 4 bedroom detached dwelling at 1A Marion Cottages, Maidstone Road, Wrotham Heath

**RESOLVED:** That planning permission be REFUSED for the following reason:

- (1) The proposal by reason of the scale and bulk is over development and detrimental to the visual amenities of the street scene. It is thereby contrary to Paragraphs 17, 57, 58, 61 of the National Planning Policy Framework 2012, policies CP1, CP13, P24 of the Tonbridge and Malling Borough Core Strategy 2007 and policy SQ1 of the Tonbridge and Malling Managing Development and the Environment Development Plan Document 2012.

[Speaker: Platt Parish Council – Mr T Bonser]



**AP2 16/32 TM/16/00892/RM - LITTLE REEDS, FORD LANE, TROTTISCLIFFE**

Reserved matters of appearance, landscaping and scale, minor change to approved layout and details of materials (condition 4), Levels (condition 5), Drainage (condition 9) and Tree Survey (condition 11) pursuant to outline planning permission TM/15/01687/OA (Outline Application: Erection of a four bedroom detached dwelling of approximately 300 square metres, habitable area with double garage to the rear of Little Reeds with access from Ford Lane) - Little Reeds, Ford Lane, Trottiscliffe.

**RESOLVED:** That Reserve Matters be APPROVED in accordance with the submitted details, conditions, reasons and informatives set out in the report of the Director of Planning, Housing and Environmental Health, subject to

(1) Amended Condition:

4. The Portuguese Laurel hedge hereby approved (or any alternative hedge species to be agreed in writing by the Local Planning Authority) shall be allowed to grow and subsequently retained at a minimum height of 2.5m.

Reason: In the interests of landscape screening.

[Speaker: Mr N Williams – agent]

**AP2 16/33 ENFORCEMENT ACTION - UPDATE (INFORMATION REPORT)**

The joint report of the Director of Planning, Housing and Environmental Health and the Director of Central Services provided an update on the enforcement action taken using emergency powers in connection with:

- the demolition of the Rose and Crown Public House, East Peckham; and
- the unauthorised use of land as a depot and associated parking of vehicles and siting of various structures at Nepicar Farm, Wrotham Heath.

Members noted that Notices were served on 25 May and 13 May 2016 respectively.

**AP2 16/34 EXCLUSION OF PRESS AND PUBLIC**

There were no items considered in private.

The meeting ended at 10.45 pm

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### AREA PLANNING COMMITTEES

#### Report of the Director of Planning, Housing & Environmental Health

#### Part I – Public

#### Section A – For Decision

#### DEVELOPMENT CONTROL

In accordance with the Local Government Access to Information Act 1985 and the Local Government Act 1972 (as amended), copies of background papers, including representations in respect of applications to be determined at the meeting, are available for inspection at Planning Services, Gibson Building, Gibson Drive, Kings Hill from 08.30 hrs until 17.00 hrs on the five working days which precede the date of this meeting.

Members are invited to inspect the full text of representations received prior to the commencement of the meeting.

Local residents' consultations and responses are set out in an abbreviated format meaning: *(number of letters despatched/number raising no objection (X)/raising objection (R)/in support (S))*.

All applications may be determined by this Committee unless (a) the decision would be in fundamental conflict with the plans and strategies which together comprise the Development Plan; or (b) in order to comply with Rule 15.24 of the Council and Committee Procedure Rules.

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#### GLOSSARY of Abbreviations and Application types

#### used in reports to Area Planning Committees as at 23 September 2015

AAP	Area of Archaeological Potential
AODN	Above Ordnance Datum, Newlyn
AONB	Area of Outstanding Natural Beauty
APC1	Area 1 Planning Committee
APC2	Area 2 Planning Committee
APC3	Area 3 Planning Committee
ASC	Area of Special Character
BPN	Building Preservation Notice
BRE	Building Research Establishment
CA	Conservation Area
CPRE	Council for the Protection of Rural England
DEFRA	Department for the Environment, Food and Rural Affairs

DETR	Department of the Environment, Transport & the Regions
DCLG	Department for Communities and Local Government
DCMS	Department for Culture, the Media and Sport
DLADPD	Development Land Allocations Development Plan Document
DMPO	Development Management Procedure Order
DPD	Development Plan Document
DPHEH	Director of Planning, Housing & Environmental Health
DSSL	Director of Street Scene & Leisure
EA	Environment Agency
EH	English Heritage
EMCG	East Malling Conservation Group
FRA	Flood Risk Assessment
GDPO	Town & Country Planning (General Development Procedure) Order 2015
GPDO	Town & Country Planning (General Permitted Development) Order 2015
HA	Highways Agency
HSE	Health and Safety Executive
HMU	Highways Management Unit
KCC	Kent County Council
KCCVPS	Kent County Council Vehicle Parking Standards
KDD	Kent Design (KCC) (a document dealing with housing/road design)
KWT	Kent Wildlife Trust
LB	Listed Building (Grade I, II* or II)
LDF	Local Development Framework
LLFA	Lead Local Flood Authority
LMIDB	Lower Medway Internal Drainage Board
LPA	Local Planning Authority
LWS	Local Wildlife Site
MAFF	Ministry of Agriculture, Fisheries and Food
MBC	Maidstone Borough Council
MC	Medway Council (Medway Towns Unitary Authority)
MCA	Mineral Consultation Area
MDEDPD	Managing Development and the Environment Development Plan Document
MGB	Metropolitan Green Belt
MKWC	Mid Kent Water Company
MWLP	Minerals & Waste Local Plan
NE	Natural England
NPPF	National Planning Policy Framework
PC	Parish Council
PD	Permitted Development
POS	Public Open Space
PPG	Planning Policy Guidance
PROW	Public Right Of Way

SDC	Sevenoaks District Council
SEW	South East Water
SFRA	Strategic Flood Risk Assessment (prepared as background to the LDF)
SNCI	Site of Nature Conservation Interest
SPAB	Society for the Protection of Ancient Buildings
SPD	Supplementary Planning Document (a statutory policy document supplementary to the LDF)
SPN	Form of Statutory Public Notice
SSSI	Site of Special Scientific Interest
SWS	Southern Water Services
TC	Town Council
TCAAP	Tonbridge Town Centre Area Action Plan
TCS	Tonbridge Civic Society
TMBC	Tonbridge & Malling Borough Council
TMBCS	Tonbridge & Malling Borough Core Strategy (part of the Local Development Framework)
TMBLP	Tonbridge & Malling Borough Local Plan
TWBC	Tunbridge Wells Borough Council
UCO	Town and Country Planning Use Classes Order 1987 (as amended)
UMIDB	Upper Medway Internal Drainage Board
WLP	Waste Local Plan (KCC)
AGPN/AGN	Prior Notification: Agriculture
AT	Advertisement
CA	Conservation Area Consent (determined by Secretary of State if made by KCC or TMBC)
CAX	Conservation Area Consent: Extension of Time
CNA	Consultation by Neighbouring Authority
CR3	County Regulation 3 (KCC determined)
CR4	County Regulation 4
DEPN	Prior Notification: Demolition
DR3	District Regulation 3
DR4	District Regulation 4
EL	Electricity
ELB	Ecclesiastical Exemption Consultation (Listed Building)
ELEX	Overhead Lines (Exemptions)
FC	Felling Licence
FL	Full Application
FLX	Full Application: Extension of Time
FLEA	Full Application with Environmental Assessment
FOPN	Prior Notification: Forestry
GOV	Consultation on Government Development
HN	Hedgerow Removal Notice
HSC	Hazardous Substances Consent

LB	Listed Building Consent (determined by Secretary of State if made by KCC or TMBC)
LBX	Listed Building Consent: Extension of Time
LCA	Land Compensation Act - Certificate of Appropriate Alternative Development
LDE	Lawful Development Certificate: Existing Use or Development
LDP	Lawful Development Certificate: Proposed Use or Development
LRD	Listed Building Consent Reserved Details
MIN	Mineral Planning Application (KCC determined)
NMA	Non Material Amendment
OA	Outline Application
OAEA	Outline Application with Environment Assessment
OAX	Outline Application: Extension of Time
RD	Reserved Details
RM	Reserved Matters (redefined by Regulation from August 2006)
TEPN56/TEN	Prior Notification: Telecoms
TNCA	Notification: Trees in Conservation Areas
TPOC	Trees subject to TPO
TRD	Tree Consent Reserved Details
TWA	Transport & Works Act 1992 (determined by Secretary of State)
WAS	Waste Disposal Planning Application (KCC determined)
WG	Woodland Grant Scheme Application

**Leybourne**  
West Malling And  
Leybourne

**17 June 2016**

**TM/16/00413/FL**

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Proposal: Outside Adult Gym comprising of building of a wet pore surface, surrounding low fence and installation of gym equipment

Location: Land Parcel 2 Lillieburn Leybourne West Malling Kent

Applicant: Leybourne Parish Council

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## **1. Description:**

- 1.1 The application is for the installation of an outdoor adult gym. It will comprise a fenced area of 20.785m long by 5.955m wide. It will be surfaced in a green coloured wet pore surface and 9 items of black and lime green coloured exercise equipment will be installed for 13 different exercises eg a leg press, a mini cross trainer and a ski machine. The fence will be low green painted hooped style, similar to the one on the nearby children's play area.
- 1.2 The applicant intends to install an extra CCTV camera for security reasons.
- 1.3 Since the application was originally submitted, the applicants have confirmed that they have discussed the "designing out crime" aspects with the Community Safety Officer at TMBC, have moved the siting of the gym slightly to the south by 4m and proposed pruning back of overhanging branches and new tree planting.

## **2. Reason for reporting to Committee:**

- 2.1 The application is locally controversial and was also called in by Cllr Shrubsole on that basis.

## **3. The Site:**

- 3.1 The site is owned by KCC and the site of the gym is proposed on an area of mown grass within the Castle Way Open Space. To the north and north-west is amenity grassed area. To the west and south west (and now included in the application site) is a small copse of trees - young trees of oak, lime and hazel. To the south is a small cycle rack and the fenced children's play area.
- 3.2 To the south and beyond the road of Lillieburn is the donkey field. To the east is a tarmac footpath and beyond is an area of amenity grass owned and maintained by TMBC. That is part of the flood plain of a small affluent of the river Medway that runs parallel to the application site, just over 30m away.
- 3.3 The application site itself is within the Amenity Green Space of Castle Way covered by Policy OS1A of the MDE DPD. It is within the urban confines of

Leybourne. It is not within the floodplain but adjacent to the outer edge. The whole area is within an Area of Archaeological Potential (AAP).

**4. Planning History (relevant):**

None

**5. Consultees:**

5.1 Re-notification has been carried out on the revised and additional information and any further comments will be included in a supplementary report.

5.2 PC: The PC is the applicant.

5.3 KCC (H&T): No objection: The proposed outdoor gym is located next to an existing outdoor play area so is unlikely to significantly increase trip generation to the site. There is sufficient on street parking available in the local vicinity.

5.4 KCC (Heritage): The HER shows no known heritage assets in the vicinity. As such I have no comments on these proposals.

5.5 Private Reps: Art 15 site notices and (33/16S/26R/0X).

5.5.1 A petition has been submitted with 133 signatures against, 3 in support and 4 neutral to the proposed location.

5.5.2 In terms of individual letters, there are the 16 letters of support that have their main points summarised as follows:

- This free facility is needed to improve fitness and reduce obesity
- The siting next to the toddler play area will encourage family use
- This is the best location in the village
- I look forward to using it
- Most of those notified live on Castle Way and so will be an unrepresentative set of views
- The negative views are based in a misunderstanding that the gym is an outdoor one not a building
- It will not be as noisy as the play area.

5.6 The 26 individual objections are summarised as follows:

- Spoils a tranquil village beauty spot



- This will harm the attractive village green area, making it more like Disney
- Opens door for more intrusive development on what was intended to be a natural green space
- Noisy teenagers will gather there at anti-social hours - current problems to 0300hrs
- Will need patrols to deal with problems, not just CCTV
- Unsafe and risky to put next to a toddler play area and a walk through to the primary school
- Poor passive surveillance
- Worried if floodlighting is to be added
- Will need parking
- Will need cleaning and maintenance
- It has been rejected from 5 other local sites - so it is not a popular idea
- It will be a white elephant - similar ones in Maidstone are not used - inadequate research of the need for this project
- The PC did not fully seek local views before promoting this idea
- This is being rushed through to hit a funding deadline
- Health and Safety concerns if inappropriate age of users
- There are other, better sites for this - the MUGA or at Leybourne Chase
- Poor use of the PC's public money.

5.7 Kent Police (summarised): Kent Police has previously commented and given crime prevention advice on this Adult Outside Gym for different sites. I believe this proposal to be sixth location which appears to be causing some local concern and divided opinion. The equipment could become a target and subject of criminal damage; it may bring in unwanted visitors which in turn could lead to more anti-social issues which are already claimed to be happening in this area.

5.7.1 I would suggest that the Parish Council liaises with the Borough Council Community Safety Unit (CSU) at Tonbridge & Malling as there is no doubt that the CSU will have to deal with the reports that come in from this proposal if it is accepted. If this planning application is approved then I recommend that CCTV (local authority) is put in place for an added layer for safety and security, if this is

not an option then consider wiring up near or close by lampposts for mobile CCTV (held within CSU).

- 5.8 Community Safety Officer: Leybourne is a low crime area and although there are some pockets of anti-social behaviour I am not concerned that the new outdoor gym equipment proposed (or its location) will add to this in any significant way. I understand that the Parish Council will be erecting a new CCTV camera overlooking the equipment and this should have the effect of either deterring anyone thinking of causing damage or, if damage does occur, will help the police to identify those causing the damage.

## **6. Determining Issues:**

- 6.1 The NPPF requires LPAs to take account of and support local strategies to improve health, social and cultural wellbeing for all and encourages strategic policies for enhancement of the natural and historic environment, including landscape. Paragraph 61 requires planning decisions to address the connections between people and places and the integration of new development into the natural environment. Paragraph 73 states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 6.2 The site lies in the urban area of Leybourne and policy CP11 states that development within the confines is acceptable in principle. The main determining issue is Policy OS1 of the MDE DPD where development which would result in the loss of, or reduce the recreational, nature conservation, biodiversity, carbon sink, landscape, amenity and/or historic value of, existing open spaces listed in Policy Annex OS1A will not be permitted unless a replacement site is provided which is equivalent or better in terms of quantity, quality and accessibility. Policy CP1 and CP24 of the TMBCS relate to the appearance and safety of an area. Policy SQ1 of the MDE DPD relates to spatial quality and that development should reflect conserve and where possible enhance the character of an area, its historical interest and the prevailing level of tranquillity. Policy SQ8 of the MDE DPD relates to parking.

### Visual Impact/Character/Landscape

- 6.3 In terms of the visual impact of the gym, there is a potential issue that needs to be assessed with further development of this formal leisure facility in terms of the established natural open and informal recreational function of the Open Space. There is a children's play space here erected by the PC on KCC's land a few years ago and this has altered the balance of the type of leisure provided in the area. The proposed outdoor Gym is of the same ilk.

- 6.4 Members will note the strength of local feeling against the principle of such a formal facility in a natural environment and, notwithstanding the play area in situ, may feel that further formal leisure facilities are not desirable in terms of appearance, impact on character and historical interest of the locality. However, in my view it would be acceptable on balance.
- 6.5 The outdoor gym is to be sited close to some trees which could help to screen the gym from longer range views on approach from the north and the facility is proposed 4m further south to increase the effectiveness of existing tree screening. However, the northern end of gym would still be visible from the carriageway and footway of Castle Way and thus the applicants have agreed to plant additional trees under licence by KCC to help to screen the western sides.
- 6.6 The gym of course will be very visible from other vantages and would urbanise the area to a degree. Overall, the proposal is not considered to breach policies CP1, CP24 and SQ1 to such a degree to warrant refusal in my opinion.
- 6.7 It is, of course, the case that the landscape screening would reduce passive surveillance and make the facility more hidden and attractive to anti-social behaviour but this is discussed below.

#### Noise

- 6.8 In the light of the existence of the children's play area, I would not consider that the noise arising from the use would add to noise or affect prevailing tranquillity provided that the equipment is well designed and maintained. The equipment is designed to use the body's own weight as resistance: i.e. there are no "weights" that might "clang" when released which is typical in an indoor gym. Policy CP24 which respects amenity and Policy SQ1 which refers to tranquillity being preserved are therefore met in my opinion.

#### Designing Out Crime

- 6.9 Local Authorities have a duty under Section 17 of the 1998 Crime and Disorder Act to consider the crime and disorder implications of all their activities, including their policies, strategies, plans and individual decisions. This duty bears on KCC, TMBC and the PC.
- 6.10 This scheme has generated local concern on crime, disorder and safety and Kent Police has indicated that these sorts of facilities can be a magnet for anti-social behaviour. However, the applicants have liaised with the Borough Council's Crime Reduction Officer and she has no objections subject to the Parish Council erecting a new CCTV camera overlooking the equipment which she says should have the effect of either deterring anyone thinking of causing damage or, if damage does occur, will help the police to identify those causing the damage. In the light of this, it is considered that crime and disorder implications would not justify a refusal if

the suggested condition on CCTV is imposed. The CCTV would need to take account of the position of the existing and proposed tree screening.

Other issues

- 6.11 There is no direct impact on nature conservation, carbon sink or biodiversity. A few low overhanging branches need to be removed but they are from young trees which will continue to grow. New trees have also been agreed in a landscaping scheme.
- 6.12 In terms of concerns that this sets a precedent for more intrusive development on what was intended to be a natural green space, if the land remains under the licence of KCC then that authority would have a final control over future development as landowner, notwithstanding any permitted development rights that would accrue to the PC if they were to take on the “maintenance” of any part of the land under licence.
- 6.13 I would not consider that the use of a gym of this size would create a highway safety issue from parking. The scheme is promoted as being potentially combined with existing parents taking their children to the play area or by runners/walkers as part of a “trim trail”. There is no objection from KCC H&T and thus no breach of policy SQ8 on parking provision in my view.
- 6.14 Many of the objectors complain that the PC did not fully seek local views before promoting this idea, that it will not be used enough and is poor value for money and that they think that there are other, better sites for this – e.g. at the MUGA or at Leybourne Chase. However, the decision made by the PC to promote this particular scheme and how they went about it are not land use planning matters.
- 6.15 Relatively extensive consultation has taken place on this planning application and it is necessary to assess and make a determination on this detailed scheme on this specific site as proposed. It is not possible to compare it to an alternative site or scheme which is not before the LPA.
- 6.16 It is considered that floodlighting or any other form of lighting should not be added and a planning condition would be necessary in my view to control that specifically.

Conclusion

- 6.17 It is clear that the PC’s project to install an outdoor gym in Leybourne has a long history and the final proposed site is not without controversy. It is a scheme that would be permitted development not needing planning permission from TMBC if the land were owned and/or currently maintained by the PC.
- 6.18 In the light of this and because the Community Safety Officer does not object to this proposal and the scheme has been amended to try to better screen the

development with trees, on balance Members may agree that the application should be granted planning permission.

**7. Recommendation:**

**7.1 Grant Planning Permission** in accordance with the following submitted details: Other details of gym equipment dated 10.03.2016, Details Need for gym dated 10.03.2016, Drawing Flood Map dated 10.03.2016, Site Plan dated 18.03.2016, Location Plan dated 24.03.2016 subject to the following Conditions:

**Conditions:**

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2 Prior to the first use of the facility hereby permitted, a scheme for CCTV that does not required the gym to be illuminated shall be installed in accordance with details to be submitted to and approved by the Local Planning Authority and retained thereafter.

Reason: To comply with Section 17 of the Crime and Disorder Act 1998.

3 There shall be no external lighting of the gym hereby permitted.

Reason: In the interests of amenity.

4 The development hereby approved shall be carried out in such a manner as to avoid damage to the existing trees, including their root system, or other planting to be retained as part of the landscaping scheme by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 5 The excavation works beneath the canopy of any trees shown to be retained on the submitted plan shall be carried out by tools held in the hand (other than power-driven tools). Any roots encountered of 50mm or more in diameter shall be carefully retained and protected from exposure and desiccation. Any roots below 50mm in diameter which are damaged or severed shall be cut so that the final wound is as small as possible. Construction of the foundations around existing roots shall be carried out by hand or by tools held in the hand (other than power-driven tools), placing sufficient small material such as sharp sand around the roots to avoid damage by compaction.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 6 Before any work is commenced, details of the depth, extent and means of excavation of the foundations shall be submitted to and approved in writing by the Local Planning Authority and the excavations and foundations shall be carried out in accordance with the approved details.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the appearance and character of the site and locality.

- 7 Within 1 month of the commencement of development, a scheme of landscaping shall be submitted for approval by the Local Planning Authority. This shall include detailed of pruning of existing trees affected by the development hereby approved. All planting comprised in the approved scheme of landscaping shall be implemented during the first planting season following the first use or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

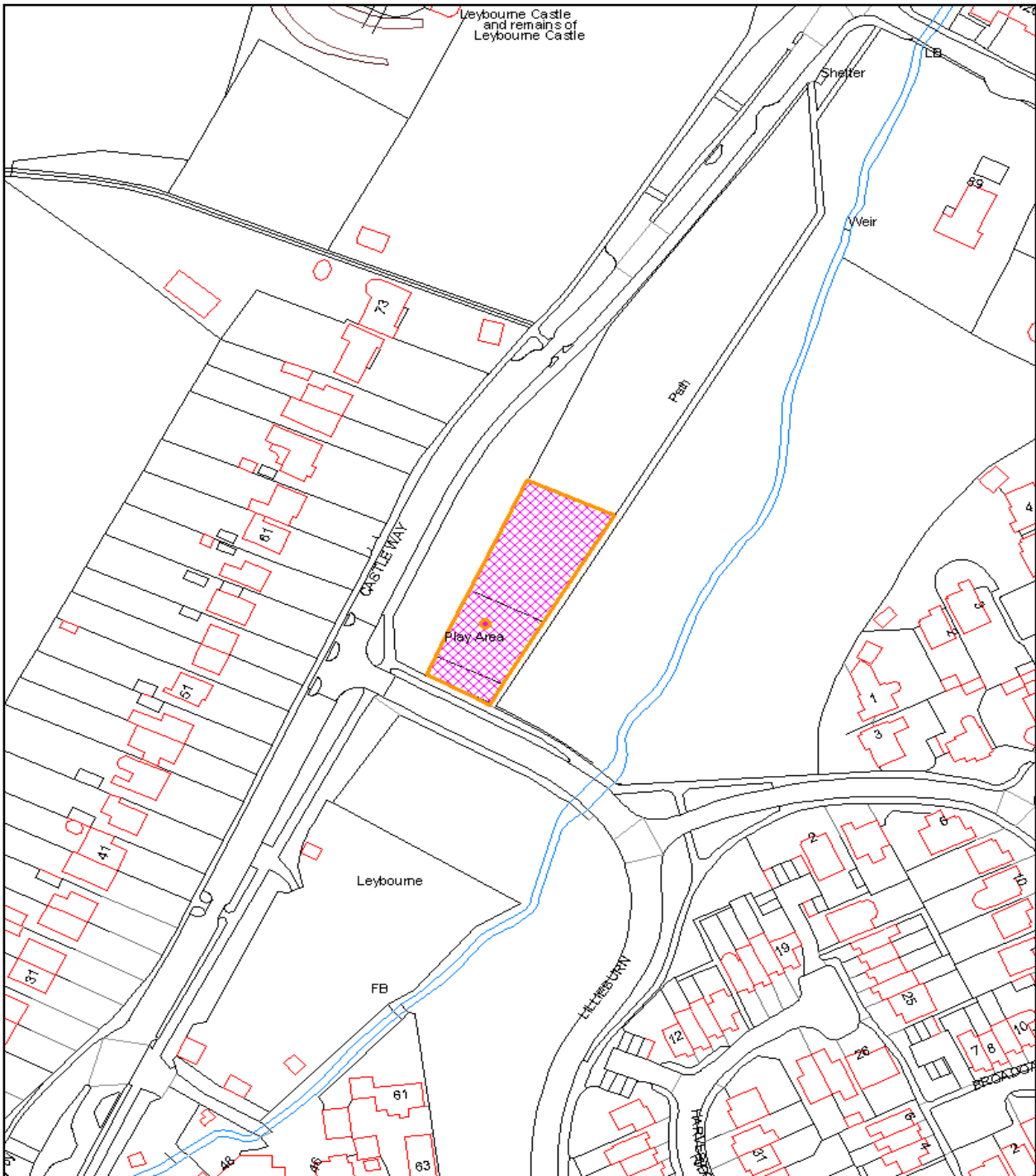
Contact: Marion Geary

**TM/16/00413/FL**

**Land Parcel 2 Lillieburn Leybourne West Malling Kent**

Outside Adult Gym comprising of building of a wet pore surface, surrounding low fence and installation of gym equipment

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**Kings Hill**  
Kings Hill

**15 February 2016**

**TM/16/00505/FL**

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Proposal:                      Erection of a residential development comprising 44 no. dwellings (Use Class C3) with associated access, parking, landscaping and infrastructure

Location:                     Area 63 Beacon Avenue Kings Hill West Malling Kent

Applicant:                    Rouse Kent (Residential) Ltd.

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## **1. Description:**

- 1.1 This application has been submitted on behalf of Rouse Kent (Residential) Limited and seeks permission for the erection of 44 no. dwellings (C3 Use Class) with associated access, parking, landscaping and infrastructure. The development comprises a mix of detached, semi-detached and terraced 2, 3, 4 and 5 bedroom dwellings. No affordable housing is included as part of this scheme.
- 1.2 The proposed development has a density of 32 dwellings per hectare. The dwellings are proposed in 12 different variations (Type A-L) and are either 2 or 2.5 storeys. All the dwellings will have individual car parking arrangements and private gardens. Nine on-street visitor parking spaces are to be provided.
- 1.3 The application site is to have three access points, two from Beacon Avenue and one from Glenton Avenue. One section of the internal access road (Durello Avenue) is already in place and serves a cluster of affordable units to the north of the site.
- 1.4 The application site was originally included within the outline application for Kings Hill as part of Phase 2. However, it remained undeveloped. As an alternative to this full planning application, a Reserved Matters application could be submitted for the re-development of this site up until June 2017 due to its inclusion within the outline planning permission.
- 1.5 Since the application was originally submitted, the proposal has been amended in the following ways:
  - Reduction in total number of units from 48 to 44;
  - Alterations to the layout to include the re-orientation of plots 5, 6, 25, 26, 38, 39 and 49 while also re-orientating plot 32 to the north away from the edge of the highway;
  - Replacement of garages with car ports.

**2. Reason for reporting to Committee:**

2.1 Application called in by Councillors O'Toole, Montague and Barker in order to consider matters of:

- Resident and Visitor Parking;
- Garage and parking space sizes;
- Over intensification of Area 63;
- Landscaping and;
- Section 106 provisions.

**3. The Site:**

3.1 Area 63 is a 1.34 ha parcel of land located within the wider Kings Hill Development. The site is located to the north of Beacon Avenue and to the east of Glenton Avenue. The land is relatively flat and consists of open ground that has been cleared ready for development.

3.2 Residential properties face the site across Beacon Avenue to the east with other clusters of residential development to the north-east and the north of the application site. An area of woodland lies to the north of the site outside the red line of the application.

**4. Planning History (relevant):**

TM/90/11228/OUT grant with conditions 12 June 1990

Mixed use development , comprising business use, with ancillary storage and ancillary distribution (use class B1); residential (C3); Hotel/conference centre (C1); convenience retail (A1 and A3); financial and professional services (A2); Residential education and training facilities (C2) creche (D1) leisure (D2) sports and recreation facilities, open spaces and landscaping, new access on approx 647 acres with ancillary road works.

TM/93/01562/OA grant with conditions 21 September 1993

Variation of condition 14 of outline permission TM/89/1655 to increase number of dwellings in first phase from 250 dwellings to 550 dwellings

TM/02/03429/OAEA Approved 28 October 2004

Outline Application: Additional 92,900 square metres B1 Business floorspace, residential development, public open space, sports, leisure and recreation

facilities and associated infrastructure at Kings Hill and adjoining land at Heath Farm, East Malling

TM/05/00163/FL      Grant With Conditions      6 June 2005

Variation of conditions 2 and 6 of planning application no. TM/02/03429/OAEA (outline application: Additional 92,900 square metres B1 Business floorspace, residential development, public open space, sports, leisure and recreation facilities and associated infrastructure at Kings Hill and adjoining land at Heath Farm, East Malling) to enable the submission of details and implementations of the development to be undertaken in phases

TM/09/03209/OB106V      Approved      1 October 2010

Application to modify S.106 Legal Agreement attached to TM/02/03429/OAEA (Outline Application: Mixed development) to provide 169 affordable units on site and 19 units off site

**5. Consultees:**

5.1 PC: Original Submission: PC wish to object to the application on the following grounds:

- Insufficient Parking - The parking provision is not in accordance with IGN3 and additional parking is required. The garages and some parking spaces appear small. Visitor parking has been rounded down from the requirement of 9.6 to 9. 34% of parking is to the rear of the dwellings rather than front;
- Highways - No traffic management proposed and design will cause problems to emergency service vehicles;
- Density - Over intensification of the site;
- Street scene - Blank walls facing Beacon Avenue;
- Landscaping - Limited landscaping and public open space;
- Planning gain - strongly object to no planning gain being provided.

5.1.2 Amended Plans: Comments awaited (to be reported as a supplementary matter)

5.2 EA: No comment

5.3 KCC (Highways): No transport statement or vehicular tracking exercise provided. Schedule of parking per plot would be beneficial.

- 5.3.1 Further comments: 4.8m wide highways and assuming zero on street parking swept path analysis is acceptable. 9 visitor parking spaces and parking allocated to each unit to be acceptable and to standard.
- 5.4 KCC (SUDS): No objection in principle. Additional ground investigation required to support infiltration.
- 5.5 KCC (Heritage): No comments received.
- 5.6 NHS: Section 106 healthcare contributions required.
- 5.7 Private Reps: Original Submission: 84/1X/10R/0S + Article 15 site notice. The following issues were raised:
- Parking (numbers);
  - Parking (space sizes);
  - Parking (courtyard design);
  - Density;
  - 106 Contributions /Affordable Housing;
  - Lack of open space/landscaping;
  - Gable ends facing street scene.
- 5.7.2 Amended Plans: One further letter received.

## **6. Determining Issues:**

- 6.1 The Kings Hill site is allocated for redevelopment with 2 major outline planning permissions having been approved for the development of the wider site in two phases including the application site under references: TM/97/01183/OA and TM/05/00163/FL. The overall site has been permitted for residential development therefore considered the proposed residential development to be acceptable in principle.
- 6.2 Saved Policy P2/3 of the Tonbridge & Malling Local Plan is relevant to this application. This states that all development within the Kings Hill Policy Area shall be designed and located so as to respect the setting of the site in the wider landscape, and to reduce to the greatest extent possible the visual intrusion of any such development in that landscape.
- 6.3 Policy CP11 of the TMBCS 2007 is an overarching policy which prioritises development within urban areas such as Kings Hill. Policy CP24 of the TMBCS

requires all new development to be well designed and of a high quality in terms of detailing and use of appropriate materials, and must through its scale, density, layout, siting, character and appearance be designed to respect the site, surroundings and amenities.

- 6.4 Policy SQ1 of the MDE DPD states that (inter alia) proposals for development will be required to reflect the character and local distinctiveness of the area including its historical and architectural interest as well as the distinctive setting of, and relationship between, the pattern of settlement, roads and the landscape, urban form and important views, and the biodiversity of the area, including patterns of vegetation, property boundaries and water bodies.
- 6.5 The application originally proposed 48 dwellings within Area 63 at a density of 36dph. The consultation on the original scheme raised a number of concerns regarding density and parking provision in particular. An amended scheme has been submitted reducing the number of dwellings to 44 and includes further alterations to address the issues previously raised regarding the overall density, street scene impact and parking provision. I will cover these in more detail later in the report.

*Layout, character and visual impact:*

- 6.6 This application proposed 44 units which are to be a mixture of detached, semi-detached and terraced dwellings. Based on the application site area of 1.34 hectares the site would have a density of 32dph. Densities of developments across Kings Hill range from 28 to 33dph and therefore the proposal would be wholly commensurate with the prevailing density and pattern of development across Kings Hill.
- 6.7 The development will comprise 7 no. 2 bedroom houses, 15 no. 3 bedroom houses, 19 no. 4 bedroom houses and 3 no. 5 bedroom houses. These dwellings are a mixture of detached, semi-detached and terraced properties; however all are of a similar design style which would use an acceptable palette of materials. The mix of house designs and styles are all considered to be appropriate and would be generally in keeping with other residential developments found within Kings Hill.
- 6.8 The original scheme included a number of buildings originally orientated with their flank elevations facing Beacon Avenue which is an important thoroughfare for the wider Kings Hill. This was considered to create a blank, inactive frontage which would have been harmful to the street scene and visual amenity. As a result, negotiations took place to secure revisions to the layout. The revised layout has re-orientated a number of plots within the site which have resulted in a significant improvement to the street scene. I therefore consider the proposals accords with the requirements of TMBCS Policy CP24 and MDE DPD Policy SQ1.

6.9 In terms of landscaping the submission does not include a formal landscaping scheme; however the site plan provided indicates that planting is to be undertaken along the street scene and to assist in softening the urban form. This level of landscaping would be typical of what is to be expected around the wider Kings Hill Development and therefore at this stage acceptable. A condition will be imposed require the submission of a detailed hard and soft landscaping scheme.

Highway safety and parking provision:

6.10 It is proposed to serve the site using the existing access points permitted in earlier permission for Kings Hill. Two of these accesses are to be off Beacon Avenue, and the third access point is from Glenton Avenue to the north-west of the site. A section of the internal access road, named Durello Way, has already been constructed allowing access to 8 dwellings and flats to the north of the site granted planning permission in 2007. A swept path analysis and visibility splays have now been provided and consultation with KCC (H+T) confirms that the 4.8m width will be acceptable.

6.11 The adopted parking standards are contained within IGN3: Residential Parking. The standards set out a requirement for 1.5 spaces to serve a 2-bedroomed dwelling and 2 spaces to serve 3, 4 and 5-bedroomed dwellings. For the purposes of applying the adopted standards, garage spaces should not be counted within the level of provision but car ports are counted.

6.12 As part of the submission a parking schedule has been provided setting out the allocated parking that is to be provided breaking it down into garages spaces, open car ports and open parking spaces (driveways). The total number of spaces to be provided is 88 parking spaces predominately consisting of an opened fronted car port and a tandem (driveway) space in front. The larger properties have a double garage and two driveway spaces in front. This ensures that the adopted parking standard is achieved even when discounting the remaining garages. Nine visitor parking spaces have also been provided.

6.13 Based on the parking standard set out in IGN3, the development would be required to provide 85 parking spaces and 9 visitor parking spaces. With 88 parking and 9 visitor parking spaces, the proposed level of parking accords with the adopted standard.

6.14 Given the difference between garages and car ports in terms of applying the standards, it will be important to ensure the car ports remain physically open. A planning condition can be imposed to this effect to ensure a level of control remains in place.

6.15 I appreciate that concern has also been raised regarding the size of the parking spaces to be provided. KCC (H+T) in making their representations have

considered the size of the parking spaces and have concluded that the parking provision is of an acceptable standard.

- 6.16 Although courtyard parking may not be considered desirable by some, the allocation of parking behind the dwellings reduces the amount of frontage hardstanding required, and has visual benefits which must weigh in the balance. As such, I consider that the balance reached between frontage parking and courtyard parking is acceptable here and ensures an acceptable overall provision of parking spaces whilst not compromising the overall visual quality of the development.

Residential Amenity:

- 6.17 The siting and layout of the proposed development, and the separation created by the layout, ensures that the proposed development would not cause any harm to residential amenity.

Planning Obligations:

- 6.18 It is noted that the NHS Property Services have sought a contribution of £51,336 (plus support for legal fees) to enhance healthcare needs at a cost per person basis within the local NHS services with the issue of contributions and affordable housing also being brought up through the consultation. With the reduction in the number of units this figure has been revised to £49,284. We are currently seeking further clarification on this matter and any further information received will be reported as a supplementary matter.
- 6.19 As a result of the fact that residential elements of Kings Hill have come forward, and specifically the fact that this site already benefits from an extant outline planning permission for housing, the affordable housing element has effectively already been provided for. There is, therefore, no justification to seek further contributions in this respect.

Conclusions:

- 6.20 Having considered the application in light of Development Plan Policy and the NPPF, I consider the proposed scheme for 44 new residential units to be acceptable in this location within the confines of Kings Hill. I therefore recommend that subject to the detailed planning conditions, as set out below, planning permission should be granted.

**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details:  
Other Housing summary dated 31.05.2016, Other Plot schedule dated 31.05.2016, Drawing 4345/I20/A63/11 REV B swept path analysis dated 02.06.2016, Other Parking schedule dated 31.05.2016, Site Plan 2499-100C

dated 31.05.2016, Drawing 2499-101C dated 31.05.2016, Drawing 2499-102 D dated 31.05.2016, Parking Layout 2499-103 G dated 31.05.2016, Proposed Plans and Elevations 2499-200 C Type A dated 31.05.2016, Proposed Plans and Elevations 2499-201 C Type B dated 31.05.2016, Proposed Plans and Elevations 2499-202 C Type C dated 31.05.2016, Proposed Plans and Elevations 2499-203 C Type D dated 31.05.2016, Proposed Plans and Elevations 2499-204 C Type E dated 31.05.2016, Proposed Plans and Elevations 2499-205 C Type F dated 31.05.2016, Proposed Plans and Elevations 2499-206 C Type G dated 31.05.2016, Proposed Plans and Elevations 2499-207 C Type H dated 31.05.2016, Proposed Plans and Elevations 2499-208 C Type I dated 31.05.2016, Proposed Plans and Elevations 2499-209 D Type J dated 31.05.2016, Proposed Plans and Elevations 2499-210 D Type K dated 31.05.2016, Proposed Plans and Elevations 2499-211 C Type L dated 31.05.2016, Drawing 2499-212 E dated 31.05.2016, Drawing 2499-213 A dated 31.05.2016, Street Scenes 2499-301 C dated 31.05.2016, Street Scenes 2499-302 C dated 31.05.2016, Street Scenes 2499-303 C dated 31.05.2016, Planting Plan DHA/732/001 REV B sheet 1 dated 31.05.2016, Planting Plan DHA/732/002 REV B sheet 2 dated 31.05.2016, Planting Plan DHA/732/003 REV B sheet 3 dated 31.05.2016, Letter dated 31.05.2016, subject to the following conditions:

**Conditions:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

2. No development shall take place until details and samples of materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

3. No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping and boundary treatment. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species, unless the Authority gives written consent to any variation. Any boundary fences or walls or



similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

4. No building shall be occupied until works for the disposal of foul and surface water drainage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Local Planning Authority.

Reason: In the interests of pollution prevention.

5. No development shall take place until details of proposed finished floor levels of buildings have been submitted to and approved by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved level details.

Reason: In order to control the development and to ensure that the development does not harm the character and appearance of existing buildings or the visual amenity of the locality.

6. No building shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.

Reason: To ensure the safe and free flow of traffic.

7. The use shall not be commenced, nor the premises occupied, until the area shown on the submitted layout as vehicle parking and turning space has been provided, surfaced and drained in respect to the dwelling(s) to which it relates. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space.

Reason: Development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

8. No development shall commence until details of a scheme for the storage and screening of refuse has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the development is occupied and shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

9. There shall be no external lighting except in accordance with a scheme of external lighting submitted to and approved by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved scheme.

Reason: In the interests of visual and residential amenity.

10. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 (including any Order revoking or re-enacting that Order, with or without modification) no doors or other means of enclosing the car ports hereby approved shall be installed to the front elevation of the car ports.

Reason: Enclosure of the car ports could reduce their use for vehicle parking and development without provision of adequate accommodation for the parking of vehicles is likely to lead to hazardous on-street parking.

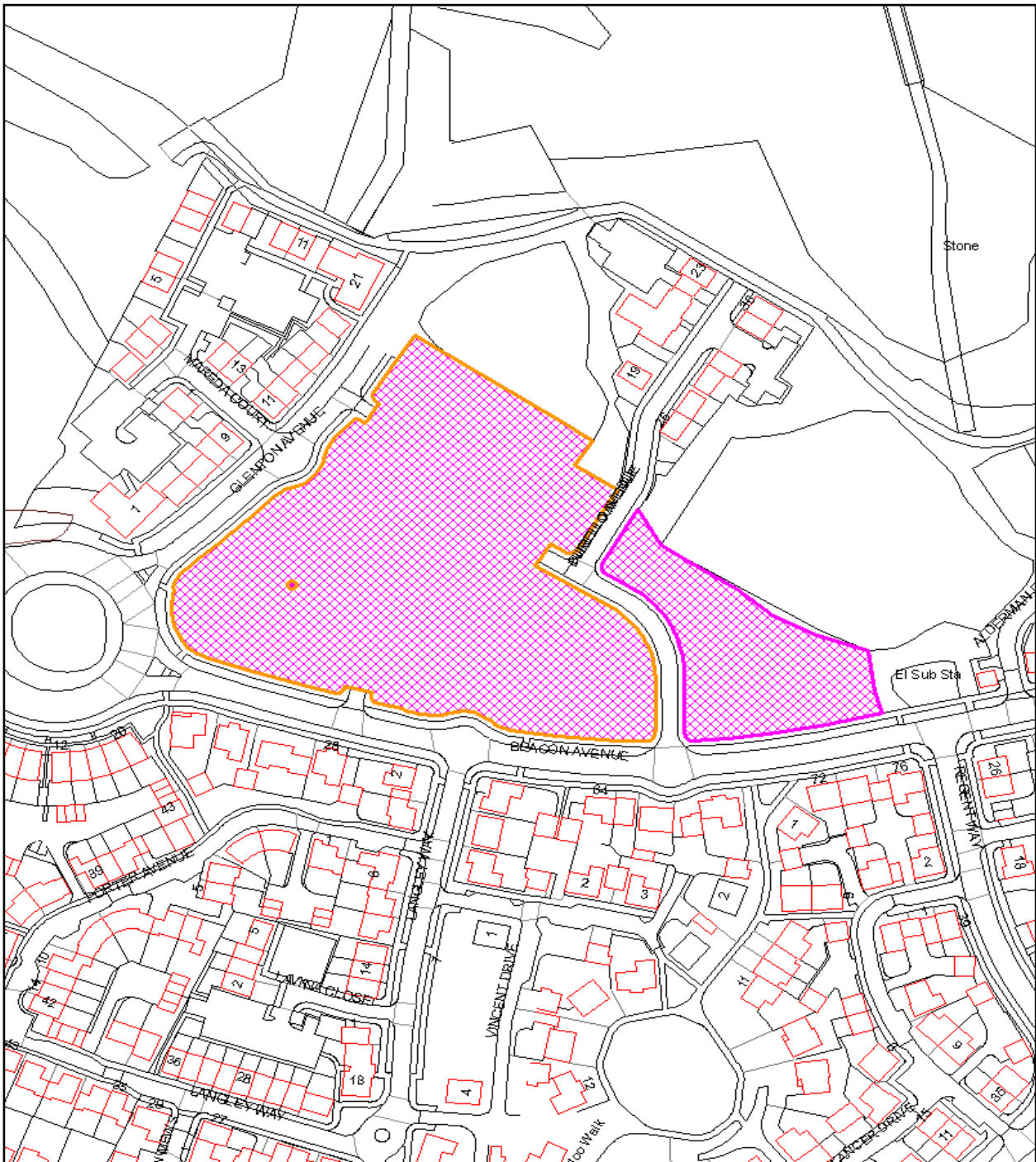
Contact: Paul Batchelor

**TM/16/00505/FL**

**Area 63 Beacon Avenue Kings Hill West Malling Kent**

**Erection of a residential development comprising 44 no. dwellings (Use Class C3) with associated access, parking, landscaping and infrastructure**

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**Shipbourne**  
Borough Green And  
Long Mill

**9 December 2015**

**TM/15/03865/FL**

Proposal: Proposed conversion of existing stable and hay barn into dwelling house (including new roof and walling to hay barn) with associated creation of domestic curtilage, access and parking facilities

Location: Great Oaks House Puttenden Road Shipbourne Tonbridge Kent TN11 9RX

Applicant: Mrs L Cohen

**1. Description:**

- 1.1 Members will recall that this application was originally reported to APC2 on 2 March 2016, when it was deferred to enable a Members’ Site Inspection to take place.
- 1.2 The Members’ Site Inspection took place on 11 April 2016, where a number of further issues were raised.
- 1.3 Since this time, the applicant has submitted a further letter and comparison plan, as they were concerned that there were a number of inaccuracies in the main committee report. The applicant has also submitted a Statutory Declaration in relation to the use of the existing buildings and paddock, stating that they have been used for private equestrian use since the applicant purchased the property.
- 1.4 For clarification, the description of the application above as a “conversion” was that submitted by the agent on the application form. However, the agent did detail in paragraph 7.2 of the submitted Planning, Design and Access Statement Planning Statement that “*the hay barn structure would essentially need substantial reconstruction and alteration*”. For this reason in this report, officers refer to the **demolition** of the hay barn as part and parcel of the scheme that seeks planning permission.

**2. Planning History (relevant):**

TM/75/47	grant with conditions	4 April 1975
Stables.		
TM/77/668	grant with conditions	9 August 1977
Erection of Hay Store.		

TM/11/01085/FL      Application Withdrawn      15 June 2011

Three bay oak framed garage with playroom above linked by external staircase, provision of drive and use of access from Puttenden Lane

TM/12/00189/LDE      Refuse      11 June 2012

Lawful Development Certificate for existing use of land as residential curtilage

### **3. Consultees:**

- 3.1 Re-consultations have taken place upon receipt of the Statutory Declaration with the Parish Council and neighbours. No responses have been received to date.

### **4. Determining Issues:**

- 4.1 For Members' assistance, the relevant policies are set out verbatim within the following assessment where applicable:

*Development within the Green Belt:*

- 4.2 Any planning application for development within the Green Belt clearly needs to address Green Belt policy, both at national and local level.

- 4.3 The description of the proposal by the applicant is for:

*"Proposed conversion of existing stable and hay barn into dwellinghouse (including new roof and walling to hay barn) with associated creation of domestic curtilage and access and parking facilities".*

- 4.4 Notwithstanding the description of the proposed development, the applicant has not submitted a Structural Survey with the application demonstrating that the buildings are structurally capable of conversion without substantial rebuilding. On the contrary, he accepted that the hay barn was not of "*permanent and sound construction and capable of conversion without major or complete reconstruction*". It was on this basis that the application was originally recommended for refusal (2 March 2016).

- 4.5 As detailed above, the agent acknowledges that the hay barn structure would need substantial reconstruction and alteration and that a new roof over the dwelling would also be required. This has also been repeatedly mentioned by the planning agent in support of his claim that the site as a whole should be defined as "previously developed land" for the purposes of applying Green Belt policy, a point that I return to in the following assessment.

- 4.6 As such, and for the avoidance of any doubt, the proposed development can effectively be separated into three constituent parts;

- Demolition of the existing hay barn and construction of new build element on a larger footprint including an enlargement of the roof;
- Conversion of existing stables to residential along with construction of new build elements to enlarge the footprint and an enlargement to the roof and;
- Use of land as residential curtilage to serve new dwelling.

4.7 I will address each of these aspects in turn.

4.8 In applying national Green Belt policy, inappropriate development in the Green Belt is harmful by definition and “should not be approved except in very special circumstances”. The weight to be given to the harm (both by definition and any other harm) is “substantial” (paragraph 88).

4.9 Paragraph 89 of the NPPF states:

*“A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:*

- *Buildings for agriculture and forestry;*
- *Provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;*
- *The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- *Limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.”*

4.10 As such, the construction of new buildings which consist of limited infilling or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development would not be considered to be inappropriate development for the purposes of applying Green Belt policy.

4.11 Previously developed land is specifically defined within the NPPF as being

*“land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings...land in built up areas such as private residential gardens...and land that was previously developed by where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”.*

4.12 Crucially, the test in paragraph 89 (6<sup>th</sup> bullet point) has two limbs: firstly whether what is proposed is either limited infilling or complete redevelopment of PDL within the terms of the definition; and secondly, if so, whether what is proposed has a greater impact on the openness of the Green Belt and the purpose of including land in the Green Belt.

4.13 In this regard, the purposes of including land within the Green Belt are set out at paragraphs 79 and 80 of the NPPF, which state:

*The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*

*Green Belt serves five purposes:*

- *to check the unrestricted sprawl of large built-up areas;*
- *to prevent neighbouring towns merging into one another;*
- *to assist in safeguarding the countryside from encroachment;*
- *to preserve the setting and special character of historic towns; and*
- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

4.14 From the applicant's own submissions it is the proposed demolition of the hay barn and replacement structure with an enlarged overall footprint and bulk in its place as part of the proposed dwelling, along with the proposed new roof which must therefore be considered in relation to paragraph 89 of the NPPF.

4.15 It is important to recognise that changes in physical bulk can be just as relevant in terms of Green Belt impact as changes to the footprint of a building. With this in mind, I am of the view that the physical changes to the roof form combined with the increase in overall footprint when considering the existing hay barn against the proposed development would clearly have a greater impact on the openness of the Green Belt and would cause encroachment into the countryside. As such, the



greater impact on the openness of the Green Belt still leads me to conclude that the development (specifically the demolition of the hay barn and the “replacement” roof and walling on a larger footprint) amounts to inappropriate development by definition, requiring very special circumstances to be demonstrated.

4.16 The applicant outlines a number of positive aspects of the development in order to justify a case of very special circumstances. These include the following:

- The applicant currently lives in Great Oaks but has recently become widowed and as a result of this the property is too large, too expensive and too difficult to maintain. This proposal would provide an alternative, smaller dwelling, that would allow the applicant to remain in the area;
- The proposed dwelling will be a contemporary style building constructed to a high standard and specification in terms of energy efficiency and sustainability whilst retaining an agricultural appearance and high quality materials that are sympathetic with the local vernacular. Chestnut boarding would be used to clad the elevations and slates for its roof.

4.17 I acknowledge this approach to enhance energy performance by improving thermal performance, and the use of solar protection on the roof can be seen as innovative aspects of the design. However, I do not consider that the design is ‘truly outstanding or innovative’. All other matters put forward, whilst acknowledged, simply amount to personal circumstances of the applicant rather than very special circumstances justifying permanent development in this location.

4.18 The development is therefore contrary to policy CP3 of the TMBCS and paragraphs 80 and 87-90 of the NPPF.

4.19 In terms of the stable block itself, paragraph 90 of the NPPF states that:

*“Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are*

*- Mineral extraction;*

*- Engineering operations;*

*- Local transport infrastructure which can demonstrate a requirement for a Green Belt location;*

*- The re-use of buildings provided that the buildings are of permanent and substantial construction; and*

*- Development brought forward under a Community Right to Build Order.”*

- 4.20 Paragraph 90 of the NPPF relates to “other forms of development” (i.e. other than construction of new buildings which is dealt with at paragraph 89 as already discussed), and the fourth bullet point as to “re-use of buildings” of permanent and substantial construction relates to direct re-use (i.e. a change of use) without any other operational development. As with paragraph 89, there is also a requirement for these forms of development to preserve openness and not conflict with the purposes of including land in the Green Belt.
- 4.21 The planning agent has submitted a Statutory Declaration stating that each of the three elements that comprise the site in this case (i.e. hay barn, stable and paddock) have been in residential use since the applicant purchased the dwelling in 1985, ancillary to the main dwelling, and therefore constitutes PDL in its entirety.
- 4.22 Notwithstanding that evidence, it is entirely clear from communications with the agent that the proposal seeks planning permission for the re-use of the existing stable block, which as Members will recall from the Members’ Site Inspection, appeared to be of a permanent and substantial construction (notwithstanding there is no structural survey to support this assertion). There is therefore no need to consider this element of the scheme in terms of the definition concerning previously developed land, rather it is paragraph 90 of the NPPF that must be applied. As I have explained earlier in the report, even the conversion of the stable block is to be facilitated by an extension and alterations meaning that it is not a straightforward conversion compliant with the tests set out in paragraph 90 of the NPPF and therefore is contrary to the requirements contained within the NPPF.
- 4.23 Turning to the use of land as residential curtilage to serve the proposed dwelling, the proposed residential curtilage mainly consists of land to the front of the stable building and hay barn. The majority of this land has been deemed to be residential curtilage by TM/12/00189/LDE. In addition to the area included in TM/12/00189/LDE it is proposed that the residential curtilage will extend to either side of the existing buildings and 3.5m to the rear of the existing barn. This area to the side of the buildings is currently a gateway and hedging to bound the area to the rear of the stable building.
- 4.24 Whilst given that the site falls within the domestic curtilage of Great Oaks, the proposal is likely to intensify the amount of domestic paraphernalia by the introduction of an additional dwelling. However, I am of the opinion that, on balance, this aspect would not have a significantly detrimental impact on the openness of the Green Belt particularly given that a condition could be imposed limiting permitted development rights in the event of a grant of planning permission.

*Development within the Countryside:*

- 4.25 Policy CP14 of the TMBCS states that:

*“In the countryside development will be restricted to:*

- (a) *Extensions to existing settlements in accordance with Policies CP11 or CP12; or*
- (b) *The one-for-one replacement, or appropriate extension, of an existing dwelling, or conversion of an existing building for residential use; or*
- (c) *Development that is necessary for the purposes of agriculture or forestry, including essential housing for farm or forestry workers; or*
- (d) *Development required for the limited expansion of an existing authorised employment use, or*
- (e) *Development that secures the viability of a farm, provided that it forms part of a comprehensive farm diversification scheme supported by a business case; or*
- (f) *Redevelopment of the defined Major Developed Sites in the Green Belt which improves visual appearance, enhances openness and improves sustainability, or*
- (g) *Affordable housing which is justified as an exception under Policy CP19; or*
- (h) *Predominantly open recreation uses together with associated essential built infrastructure; or*
- (i) *Any other development for which a rural location is essential.*

*Within the Green Belt, inappropriate development which is otherwise acceptable within the terms of this policy will still need to be justified by very special circumstances.”*

4.26 With the above policy in mind, CP14 (b) allows for the conversion of an existing building for residential use. There is no overt stipulation within this policy that an “existing building” has to meet any criteria concerning its ability to be converted in physical terms. However, to benefit from this provision the building must as a matter of logic be capable of conversion for residential use otherwise the development would amount to demolition and rebuild (for which the only policy support within CP14 relates to one for one replacement of an existing dwelling). There is therefore no scope within the terms of policy CP14 to demolish a non-residential building and replace with a residential dwelling, even if that dwelling took the exact same form and structure as the building it replaced. It is clear that in part the development will amount to demolition and rebuild and that element of the works is not in accordance with the requirements of policy CP14.

4.27 I am aware that CP14 dates from 2007 but in my view it remains as part of the development plan and has not been superseded by any national guidance in the meantime.

Conversion of rural buildings:

4.28 Policy CP14 of the TMBCS is in effect supported by detailed provisions set out in policies DC1 and DC2 of the MDE DPD. These set out a series of criteria which must be met for the re-use of existing rural buildings “of permanent and sound construction” to be permissible, or for replacement buildings to be permissible in such locations.

4.29 Specifically, policy DC1 of the MDE DPD states that:

*“Proposals for the reuse of existing rural buildings that are of permanent and sound construction and are capable of conversion without major or complete reconstruction (as demonstrated by a structural survey) for commercial, industrial, recreation or tourist development will be permitted subject to all of the following criteria:*

- a) *The building, and any alterations proposed as part of the conversion, are of a form, bulk and general design and of materials which are in keeping with the character of the area in which it is located as defined in the Character Area Appraisal SPD;*
- b) *The proposed use is acceptable in terms of residential and rural amenity, highway impacts and the use of land surrounding the buildings, and can be accommodated without requiring the erection of extensions or ancillary buildings. If appropriate, conditions will be imposed removing permitted development rights;*
- c) *The proposed use does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit;*
- d) *Any landscaping scheme for the site is appropriate to its rural location having regard to the Character Area Appraisals SPD;*
- e) *The proposed use does not result in a negative impact upon protected species; and*
- f) *In the case of buildings of architectural or historic interest, conversion would not:*
  - *be detrimental to the architectural or historic character of the building, including any archaeological or technological interest it may have, its group value with any other historic buildings, or its setting; or*
  - *result in the loss of important features relating to the original fabric, the external character of the building, associated archaeological remains or its internal spatial qualities.”*

2. *In the case of proposals for the conversion of such buildings for residential use, permission will not be granted where there is any conflict with subparagraphs (a) to (f) of Part 1 of this Policy, or where:*

*(a) the proposal would result in an unacceptable residential environment arising from operations or uses nearby; or*

*(b) the scale and nature of the proposed residential curtilage around the building, particularly in respect of domestic paraphernalia, results in an adverse impact on the rural character or appearance of the countryside as defined in the Character Area Appraisals SPD.*

3. *Where rural buildings, including outbuildings within the curtilage, have been converted, subsequent proposals requiring planning permission to extend such buildings will not normally be granted.*

4.30 Policy DC1 does not support substantial reconstruction and alteration. The hay barn consists of approximately half of the existing built form, and therefore I am of the opinion that it can be concluded that the proposal is contrary to Policy DC1 of the MDE DPD. Whilst the proposed pitched roof would not increase the overall ridge height of the building it is proposed to increase the pitch of the rear of the roof slope of the existing stable building to be of a greater pitch, so as to form a catslide roof over the rear of the stable building and the hay barn. The increase in bulk, resulting from the roof form, of 19% at roof level will have a significant impact on the rural character of the countryside.

4.31 Policy DC2 of the MDE DPD applies to replacement buildings in the countryside, i.e. the hay barn, and states

1. *A replacement building in the countryside will be permitted subject to meeting all of the following criteria:*

*(a) It would not be materially larger than the existing building and it would be appropriate in scale and design to its setting and any neighbouring buildings and to the character of the area within which it is located as defined in the Character Area Appraisals SPD;*

*(b) The proposal does not result in the fragmentation and/or severance of an agricultural land holding creating a non-viable agricultural unit;*

*(c) Full account is taken of any biodiversity interest in accordance with Policy NE3;*

*(d) It is not in an isolated position in relation to infrastructure and services; and*

*(e) The demolition of the existing building would not result in the loss of a building of architectural or historic interest or a building that contributes to local character.*

2. *The replacement of non-residential buildings in the countryside with residential development will be considered on the basis that it is new residential development and will therefore also be subject to Core Policy CP14. Proposals in the Green Belt will be considered in light of PPG2.*

4.32 Policy DC2 of the MDE DPD does not support the replacement of non-residential buildings in the countryside with residential development as it states that these proposals will also be subject to Policy CP14 of the TMBCS.

Other Material Considerations:

4.33 As Members will be aware, the Council in its role as Local Planning Authority is required to determine planning applications and other similar submissions in accordance with the Development Plan in force unless material considerations indicate otherwise. Policy CP14 of the TMBCS and policies DC1 and DC2 of the MDE DPD are the key policies within the Development Plan fundamental to the determination of the application. It is therefore necessary to establish whether or not there are any material considerations that would lead to a different conclusion to that set out above. I do not consider that the circumstances put forward by the applicant amount to material planning considerations sufficient to override the Development Plan policies in this instance.

4.34 There has been some comparison made by Members to a new dwelling that has recently been constructed at Hookwood Farm (TM/13/02150/FL). However, that case is not comparable to this current application as it was a scheme for a replacement dwelling. Whilst the bulk of the replacement dwelling was considerably greater than the existing, this was on the basis the proposal involved the removal of a number of large agricultural buildings, considered to have an overall beneficial impact.

4.35 Other relevant policies relating to the proposal are Policies CP7 (AONB) and CP24 (Achieving a High Quality Development) of the TMBCS and policy SQ1 (Landscape Protection/Enhancement) of the MDE DPD. I am satisfied that the proposal satisfies these policies, as per the considerations set out in my reports to APC2 on 2 March and 13 April 2016.

Conclusions:

4.36 In conclusion, aspects of the proposed development involve demolition and rebuild or extensions to the footprint and roof form to facilitate the re-use which would all have a greater impact on the openness of the Green Belt, thus comprising inappropriate development for which there are no very special circumstances. Those aspects of the development are also contrary to policy CP14 of the TMBCS and policies DC1 and DC2 of the MDE DPD as they involve demolition and rebuild to an alternative use. There are no material planning considerations in my view that override the policy position in respect of this development. As such, the following recommendation is put forward:

**5. Recommendation:**

**5.1 Refuse planning permission** for the following reasons:

**Reasons:**

- 1 The site lies within the Metropolitan Green Belt where there is a strong presumption against permitting inappropriate development, as defined by paragraph 87 of the National Planning Policy Framework 2012. The proposal would involve the partial redevelopment of a previously developed site (brownfield land), but would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development, and would therefore be contrary to paragraphs 87-90 of the National Planning Policy Framework 2012 and thereby contrary to policy CP3 of the Tonbridge and Malling Borough Core Strategy 2007
- 2 The development proposes rebuilding the existing hay barn and extending the footprint and roof form of the stable building to facilitate its re-use as a residential dwelling. The proposal is not a form of development that is normally permitted in the countryside as listed in Policy CP14 of the Tonbridge and Malling Borough Core Strategy 2007 and policies DC1 and DC2 of the Managing Development and Environment DPD 2010, and no material considerations exist that justify setting aside this provision.

Contact: Glenda Egerton

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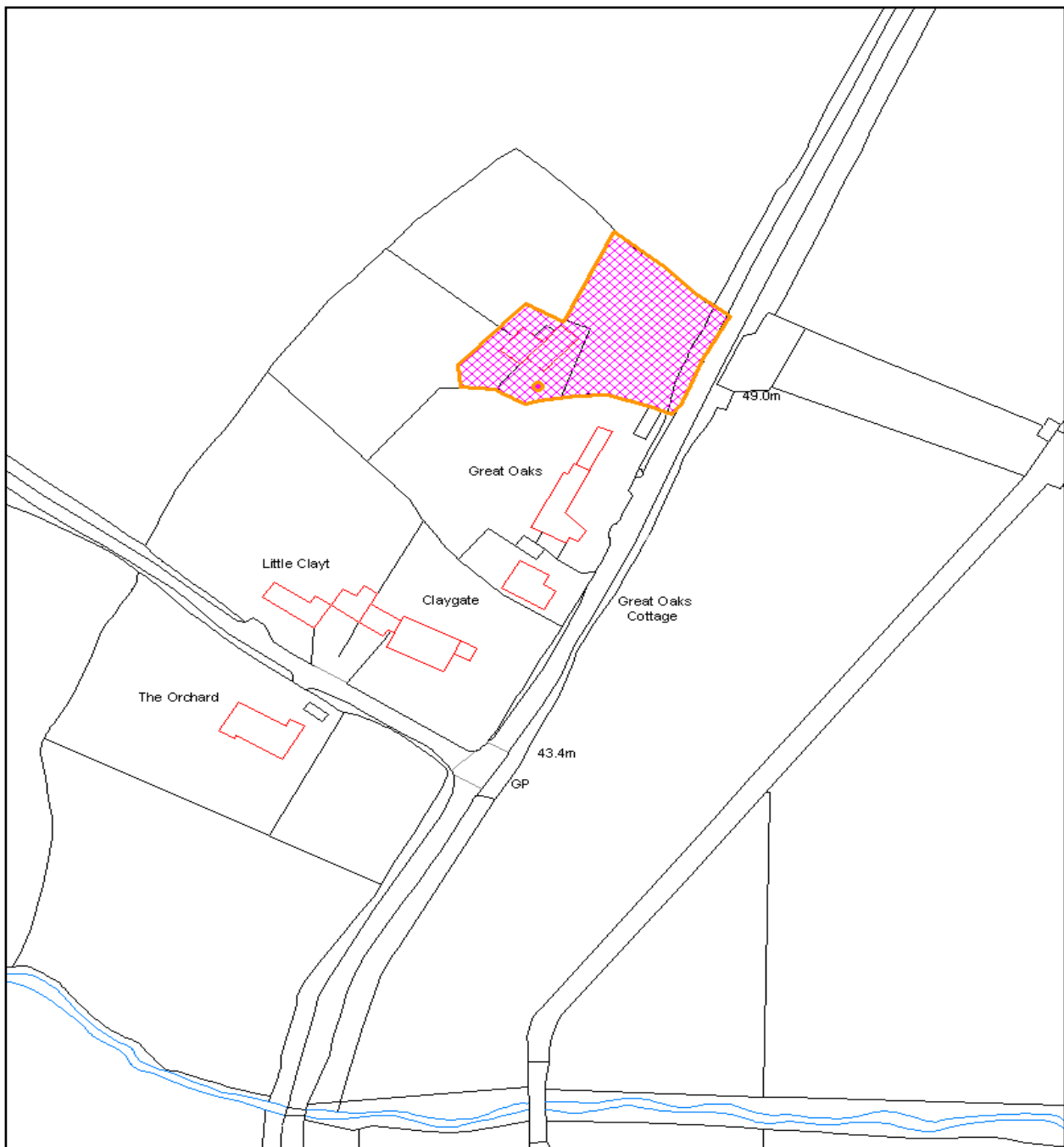


**TM/15/03865/FL**

Great Oaks House Puttenden Road Shipbourne Tonbridge Kent TN11 9RX

Proposed conversion of existing stable and hay barn into dwelling house (including new roof and walling to hay barn) with associated creation of domestic curtilage, access and parking facilities

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**Stansted**

Wrotham, Ightham And  
Stansted

**1 February 2016**

**TM/16/00235/FL**

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Proposal: Construction of flint stone and brick wall along north west side boundary  
Location: Fairseat Farm House Vigo Road Fairseat Sevenoaks Kent TN15 7LU  
Applicant: Mr Matthew Stock

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**1. Description:**

- 1.1 This application was deferred from the APC2 on 25 May 2016 to allow for a Members' Site Inspection to take place and in order for officers to seek clarification over whether the correct ownership Certificate had been submitted in regard to the extent of development. A copy of my previous committee report is annexed for ease of information.
- 1.2 Since the Committee meeting, the application has been amended to exclude any changes to the gate and track nearest the Village Hall which exist at present. The access to the new car port will remain as existing (mid-way along the side boundary) and that reduces the length of the proposed new wall to 26m.
- 1.3 The Members' Site Inspection took place on 17 June and those in attendance, which included the Parish Council, were able to study the amended plans as described.

**2. Determining Issues:**

- 2.1 The relevant determining issues remain as discussed in the report of 25 May 2016 and the Members Site Inspection raised no further issues. However it was confirmed that the wall will be built inside the land ownership of the applicant and thus would not necessarily equate to the outer edge of the hedge which could have grown away from the land ownership over time.
- 2.2 The issues surrounding land ownership, gating and use of the track to the north of the site have now been removed from the proposal currently before Members and as such are now separate from the determination of this application and will be looked at subsequently by the applicant.

**3. Recommendation:**

- 3.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 26.04.2016, Email + PHOTOGRAPH BRICK dated 27.04.2016, Proposed Elevations 14124 201 P6 dated 17.06.2016, Location Plan 14124 001 P1 dated 26.01.2016, Site Plan 14124 200 P6 dated 17.06.2016, subject to the following:

**Conditions:**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No flintwork shall take place until a sample panel of the flintwork for the construction of the boundary wall has been provided on-site. The development shall be carried out in accordance with the sample panel and the approved plans and application details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the Conservation Area or the visual amenity of the locality.

- 3 Any gaps in the existing hedging shown to be retained on the approved plans shall be filled/planted-out with the same or similar plant species within the first planting season following the commencement of the new boundary wall hereby approved. Any part of the hedging which within 10 years from the date of this permission is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with a similar species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class B of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To ensure that any future development does not harm the character of the Conservation Area or openness of the Green Belt.

Contact: Mark Fewster

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**Report from 25 May 2016**

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**Stansted****1 February 2016****TM/16/00235/FL**Wrotham, Ightham And  
Stansted

Proposal: Construction of flint stone and brick wall along north west side boundary

Location: Fairseat Farm House Vigo Road Fairseat Sevenoaks Kent  
TN15 7LU

Applicant: Mr Matthew Stock

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**1. Description:**

- 1.1 The original submission proposed a flint stone and brick wall approximately 2m high along the entire front (southwest) boundary and most of the side (northwest) boundary of the site. A wall was also shown along the common boundaries with the Village Hall. The application was amended on 21 March 2016, substantially reducing the extent of the new wall to a single length of wall along the northern section of the side (northwest) boundary only. The existing hedging along the remaining parts of the front and side boundaries is to be retained. The existing post and wire fencing along the common boundaries with the Village Hall is also now to be retained.
- 1.2 The revised wall is to extend along the northwest side boundary (private access road frontage) from a point 16.75m back from Vigo Road, for a length of 27.5m. The wall also returns into the site to accommodate the repositioned vehicle access and new gates which are to be set back 4.4m from the access road. The main section of the wall is to be 1.985m high above ground level. The curved entrance section is to be 1.715m high. The wall will comprise 2 courses of chamfered face brick at the base, flint faced infill and brick coping. The brickwork is to be reclaimed red brick.
- 1.3 The amendments were the subject of re-consultation to the Parish Council and neighbours for a further 2 week period.

**2. Reason for reporting to Committee:**

- 2.1 At the request of Councillor Coffin because of local concern.

**3. The Site:**

- 3.1 The application site is located on the northeast side of Vigo Road, relatively central within the village of Fairseat. The site accommodates a two-storey cottage with gable ends and gable fronted porch. Building works relating to extensions and alterations to the dwelling are currently being undertaken. The grounds to the house are generous and well landscaped. The main access to the site is within the centre of the frontage to a private access road that extends northeast from

Vigo Road to the Village Hall. A new access has been provided further to the north along this frontage. Established mixed hedgerows extend along the front and northwest side boundaries.

- 3.2 This part of Fairseat is washed over by the Metropolitan Green Belt. The site is also within the Fairseat Conservation Area and Vigo Road is a Classified Road. It is outside the settlement confines and therefore in the countryside.
- 3.3 The grade II\* listed buildings of Fairseat Manor and its front boundary wall lie opposite to the southwest across Vigo Road. The Old Post House lies to the north across from the access track, with the Village Hall bordering the application site to the northeast. Other residential properties lie further to the southeast, with the Church of the Holy Innocents 35m to the west.

#### 4. Planning History (relevant):

TM/12/03608/FL      Approved      23 January 2013

Extensions to side and rear of dwelling and revised parking arrangements  
(Resubmission of TM/12/02313/FL)

TM/12/03737/FL      Approved      21 February 2013

Erection of a new open fronted garage in the garden of Fairseat Farmhouse

TM/15/01099/FL      Approved      13 July 2015

Demolition of existing side extensions and construction of two storey rear extension; extension and alterations to dwelling roof including dormers to front and rear; upper level windows to side elevation of main dwelling and render to walls

TM/15/03105/NMA      Approved      13 October 2015

Non Material Amendment to planning permission 12/03737/FL (Erection of a new open fronted garage in the garden of Fairseat Farmhouse): Revised garage design

#### 5. Consultees:

5.1 PC (Original Scheme): Objection to the application on the following grounds:

- The proposal would result in a significant change to the character of the CA and therefore would not preserve or enhance the CA.
- The walls will significant affect the setting of the Grade II \* listed building of Fairseat Manor
- The new access point will negatively affect the Village Hall and will endanger pedestrians

- Several trees will be affected by the construction of the wall
- Light will be blocked to the Village Hall

5.2 PC (Amended Scheme): The previous objections remain. Clarification is needed on the section of the proposed wall that would run behind the Village Hall, as it is not clear from the drawings whether this part is still included with the plans or not. There is concern over the proposed new access. The Old Post Office, the Recreation Ground and the Village Hall have rights of access over the entire length of road shown. As has been previously stated, this is an unmade single track road with no lighting and the only access for users of the Recreation Ground and Village Hall is on foot. The access to the garage of Fairseat Farmhouse as shown on the amended drawings would still pose a danger to the community using the Recreation Ground and Hall. Furthermore, the planning consent given for the garage was using the existing vehicular access to the property and members do not see the need to alter this. This established entrance for cars has much less impact on the community and poses less danger, being closer to Vigo Road.

5.3 Private Reps: 16/0X/16R/0S + site and press notices (Original Scheme). The following concerns were raised by 16 objectors:

- Replacing the hedges with walls would adversely affect the established rural character of the CA
- The walls will affect the historic manor houses and views of Fairseat Pond
- The walls are not in keeping with the appearance of the house
- The height of the walls are unsuitable for the location
- Trees close to the hedgerows would be damaged
- Safety concerns with the new vehicle access which is too close to the entrance to the recreation ground
- Legal right of way issues
- Walls are shown along the boundaries to the Village Hall but no heights are specified

5.4 Private Reps: 8/0X/8R/0S (Amended Scheme). The following concerns have been raised to the revised scheme by 7 objectors:

- The new access and gates would result in a loss of access to the Village Hall and is located too close to the entrance to the recreation ground.
- The access would affect pedestrian safety along the access road

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## 6. Determining Issues:

- 6.1 The main issues are whether the proposed boundary wall would be inappropriate development in the Green Belt, preserve the appearance and character of the CA and setting of the nearby listed buildings or affect neighbouring amenity.

### Green Belt:

- 6.2 The application site is in the Green Belt and therefore Section 9 of the NPPF applies. Paragraph 90 within this Section advises that engineering operations are a certain form of development that would not be inappropriate in the Green Belt provided they preserve the openness of the Green Belt. The proposed wall would be domestic in scale and would provide a varied form of enclosure to an existing residential curtilage and therefore would not result in any additional harm to the openness of the Green Belt, in my view. I am thus satisfied that the proposal would not be *inappropriate development* in the Green Belt and would therefore accord with policy CP3 of the TMBCS and paragraphs 87, 88 and 90 of the NPPF.

### Character / Visual Amenity / Setting of LB:

- 6.3 Policies CP24 of the TMBCS and SQ1 of the MDEDPD require development to be well designed and through its scale, density, layout, siting, character and appearance respect the site and its surroundings. It should also protect, conserve and where possible enhance the character and local distinctiveness of the area, including its setting in relation to the pattern of the settlement, roads and surrounding landscape.
- 6.4 Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require planning authorities to give special attention to the desirability of preserving the setting of a listed building or any features of special architectural or historic interest which it possesses or preserving or enhancing the character or appearance of the CA.
- 6.5 The proposed boundary wall is generous in its length, providing a height of almost 2m and sited on a shallow bank which would raise its overall height slightly in relation to the level of the access track. I consider the length and height of the wall to be acceptable in this setting given the width of the access road and the existence of a high brick and timber fence that is situated on the opposite side of the access track along the first half of the boundary of The Old Post House. The flint stone facing and reclaimed red face brick base and capping would provide an appearance that would complement other walls and features in the immediate area. The retention of the hedging along the frontage boundaries close to Vigo Road would preserve the soft landscaped approach to this historic part of the village.



- 6.6 The new wall is set well away from the Grade II\* Listed wall and manor house associated with Fairseat Manor and its appearance would not detract from the setting of the listed wall.
- 6.7 I am therefore satisfied that the proposed wall would preserve the character and appearance of the CA as well as the setting of the listed buildings to the southwest. The development would also not harm the visual amenity of the area. The development therefore accords with policies CP24 of the TMBCS and SQ1 of the MDEDPD, and Section 7 (Requiring good design) and paragraphs 129 and 131 (Heritage Assets) of the NPPF.

Neighbouring Amenity:

- 6.8 The wall is set well back from the vehicle entrance and front boundary of The Old Post House and therefore would not harm the residential amenities of this neighbouring property.

Representations:

- 6.9 The main concerns raised by the Parish Council and neighbours in regards to the original scheme related to the impact of the substantial lengths of flint stone walls proposed on the boundaries. The scheme has been amended to significantly reduce the amount of boundary wall proposed and locate it on the much less prominent northwest (side) boundary, set well back from Vigo Road.
- 6.10 The potential impact on trees was also mentioned but there are now no trees within the section of hedging that is to be removed. An informative can be added making the applicant aware of their obligation to protect the mature Ash tree close to the rear fence adjacent to the hard surfaced driveway area.
- 6.11 The Parish Council, Committee members and local residents have raised concerns about the revised access point and its potential impact on access to the Village Hall and pedestrian safety. This access is to a private access track and therefore is not a planning matter. In any event, the new gates are shown to be set well back from the edge of the access track and the proposed wall will return into the site to provide additional visibility. Legal right of way issues are also not a material planning consideration.
- 6.12 In light of the above, I consider that the proposed development accords with the relevant provisions of the Development Plan and NPPF, and therefore approval is recommended.

**7. Recommendation:**

- 7.1 **Grant Planning Permission** in accordance with the following submitted details: Email dated 26.04.2016, Email + PHOTOGRAPH BRICK dated 27.04.2016, Site Plan 14124 200 P4 dated 21.03.2016, Proposed Elevations 14124 201 P4

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dated 21.03.2016, Location Plan 14124 001 P1 dated 26.01.2016, subject to the following:

### **Conditions / Reasons**

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 No flintwork shall take place until a sample panel of the flintwork for the construction of the boundary wall has been provided on-site. The development shall be carried out in accordance with the sample panel and the approved plans and application details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development does not harm the character and appearance of the Conservation Area or the visual amenity of the locality.

- 3 Any gaps in the existing hedging shown to be retained on the approved plans shall be filled/planted-out with the same or similar plant species within the first planting season following the commencement of the new boundary wall hereby approved. Any part of the hedging which within 10 years from the date of this permission is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with a similar species, unless the Local Planning Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) no development shall be carried out within Class B of Part 2 of Schedule 2 of that Order unless planning permission has been granted on an application relating thereto.

Reason: To ensure that any future development does not harm the character of the Conservation Area or openness of the Green Belt.

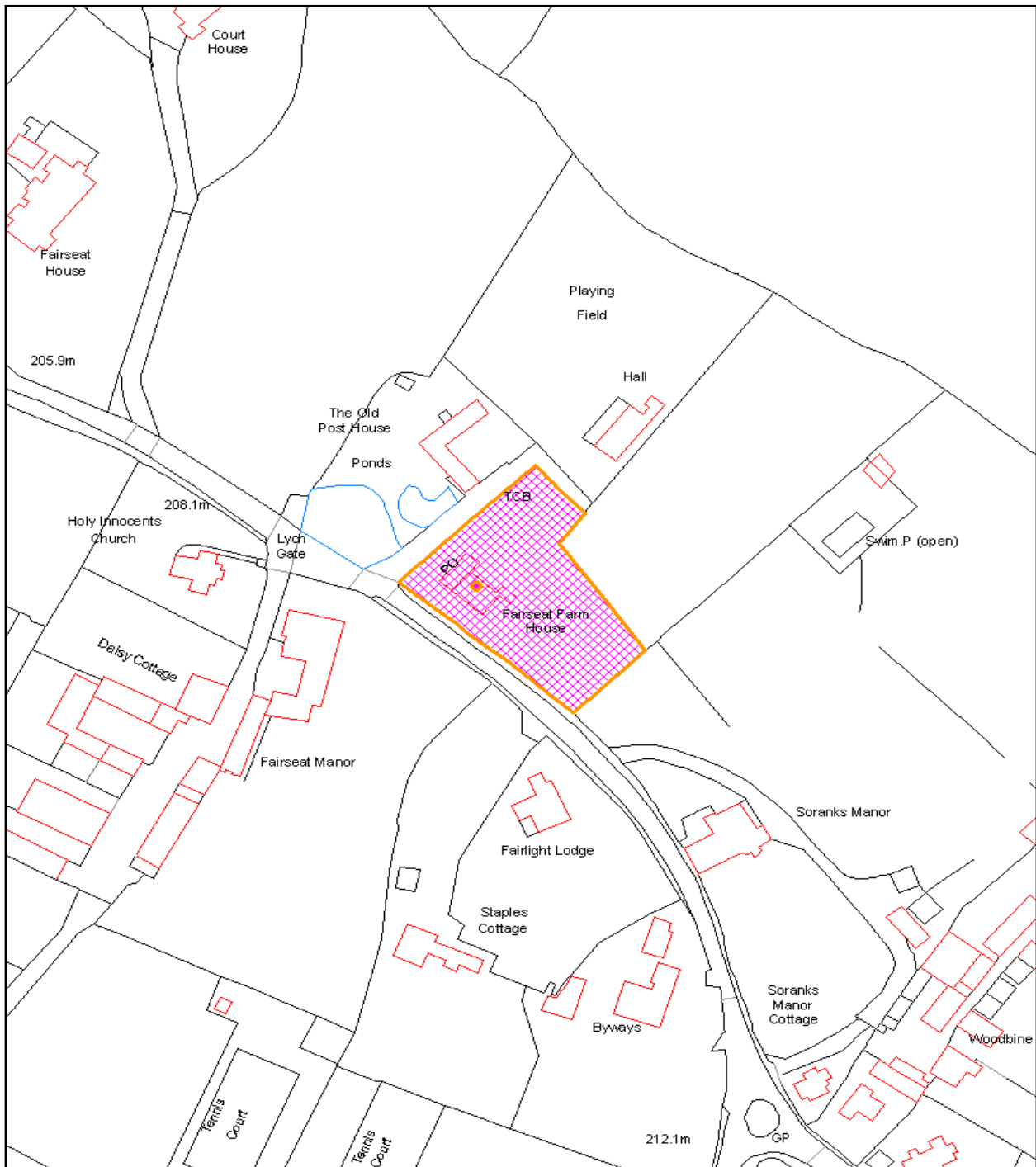
Contact: Mark Fewster

**TM/16/00235/FL**

Fairseat Farm House Vigo Road Fairseat Sevenoaks Kent TN15 7LU

Construction of flint stone and brick wall along north west side boundary

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**Alleged Unauthorised Development**

**West Malling**

**15/00002/COM**

**568054 157790**

West Malling And  
Leybourne

Location:

65 High Street West Malling Kent ME19 6NA

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**1. Purpose of Report:**

- 1.1 To report the unauthorised work to this Grade I Listed Building, being the installation of an air conditioning unit and a new flue and air intake unit to the rear of the property.

**2. The Site:**

- 2.1 The site is the rear of a Grade I listed building dating from 15<sup>th</sup> Century and it neighbours a Grade I listed building from 1160-1180. It is in a Conservation Area. There are a mix of retail, office and residential activities in the locality.

**3. Planning History (most recent/relevant):**

TM/13/03238/LB      Approved      22 May 2014

Listed Building Application: Internal and external alterations including new kitchen, new WC, downstairs WC, replacement staircase, part exposure of loft space, replacement door to shop front, new signage, rear porch and front awning plus air conditioning

TM/13/03257/FL      Approved      22 May 2014

Alterations to shop front, new awning and rear porch and replacement air conditioning condenser units (screened)

TM/15/00598/LRD      Approved      12 June 2015

Details pursuant to conditions 8 (wall repairs), 12 (roof insulation), 13 (shopfront affixation) of Listed Building consent TM/13/03238/LB (Internal and external alterations including new kitchen, new WC, downstairs WC, replacement staircase, part exposure of loft space, replacement door to shopfront, new signage, rear porch and front awning plus air conditioning) (Conditions 6 (structural works), 7 (timber repairs), 11 (porch), 14 (replacement plant) not relevant)

TM/15/00603/RD      Application Withdrawn      26 October 2015

Details pursuant to condition 3 (ventilation system acoustics) of planning permission TM/13/03257/FL (Alterations to shop front, new awning and rear porch and replacement air conditioning condenser units)

TM/15/01533/RD      Approved      4 September 2015

Details of Archaeological observation and recording pursuant to condition 4 of TM/13/03257/FL (Alterations to shop front, new awning and rear porch and replacement air conditioning condenser units (screened))

TM/15/01677/NMA      Approved      27 October 2015

Non Material Amendment to planning permission TM/13/03257/FL (Alterations to shop front, new awning and rear porch and replacement air conditioning condenser units (screened)) to alter the internal layout

TM/15/02125/LB      Application Withdrawn      26 October 2015

Listed Building Application: Internal and external alterations including new kitchen, new WC, downstairs WC, replacement staircase, part exposure of loft space, replacement door to shop front, new signage, rear porch and front awning plus air conditioning and new kitchen external extraction flue location at the rear of the property (retrospective)

#### **4. Alleged Unauthorised Development:**

- 4.1 Without Listed Building Consent the retrospective installation of an air conditioning unit and a new flue and air intake unit to the rear of a Grade I listed café/restaurant.

#### **5. Determining Issues:**

- 5.1 This is a Grade I listed building and is situated within the West Malling Conservation Area. It has become clear that the owners have installed a large air conditioning unit and new flue to the rear of the building without the benefit of planning permission or listed building consent.
- 5.2 Sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require that in considering whether to grant listed building consent or planning permission for development which affects a listed building or its setting, the Local Planning Authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.3 Part 72 of the Act states that, with respect to any buildings or other land in a Conservation Area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

5.4 As a heritage asset, the following requirements of the NPPF are also relevant:

*Paragraph 17: conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations;*

*Paragraph 65: Local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).*

*Paragraph 132: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building; park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.*

*Paragraph 133: Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- the nature of the heritage asset prevents all reasonable uses of the site; and*
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and*
- the harm or loss is outweighed by the benefit of bringing the site back into use.*

5.5 I understand that the installed external equipment was designed and specified to satisfy requirements of DEFRA, HSE and EHO in order to minimise noise and odours. In terms of health and safety, it is the Borough Council Safety team which oversees this issue advises that there is no maximum working temperature, but it must be 'reasonable'. So if ventilation to a kitchen cannot be improved physically, it

has to be managed by extra breaks, provision of fans/portable air con units, allowing staff to drink during their shift outside of breaks.

- 5.6 The first unauthorised flue and air intake plant (subject of the withdrawn application TM/15/02125/LB as set out above) was unacceptable to officers and to Historic England. However, the newly installed plant/extraction, the subject of this report, is considered to be even less aesthetically acceptable and in the event that formal retrospective applications were made in an attempt to regularise the unauthorised works they would almost certainly produce strong objections from Historic England.
- 5.7 The issue concerns the setting of this sizeable combination of plant in the context of two listed buildings both of national importance, the character and appearance of the Conservation Area and the general harmful impact on outlook to residents and other users of the public domain at Mill Yard.
- 5.8 Consideration has been given as to whether or not any remedies to disguise the plant could be implemented, including the possibility of screening and painting. However, the former would increase the bulk and would therefore be unacceptable. Whilst painting the plant in a darker grey would visually help, there remain fundamental issues with the visual impact and masking of the views of the listed building. This is due to significant bulk and unsympathetic industrial form in the vicinity of 12<sup>th</sup> and 15<sup>th</sup> century listed buildings.
- 5.9 It is accepted that the proposed drawings for the renovation of the café for the use by the current occupier did show an open kitchen and those plans were approved at the time. However, it was repeatedly confirmed by the architect throughout that process that there would be no need to alter the external flue or air intake plant. Had this proposal been submitted for planning permission and listed building consent at the correct time, that would have called into question both the open plan nature of the kitchen and the type of foods cooked (there being a significant level of chargrilling of food which produces smoke).
- 5.10 There is no doubt that the current development has a significant impact on the fabric of the building and affects, by its significant bulk and industrial form, the view of this Listed Building from the Conservation Area. The setting of this sizeable combination of plant in the context of two listed buildings, both of national importance, has resulted in an adverse impact on the character and appearance of the Conservation Area and has a general harmful impact on outlook to residents and other users of the public domain at Mill Yard. As such it fails to meet the criteria set down in the Act and the requirements of the NPPF.
- 5.11 For the above reasons I believe that formal action should be taken to seek the removal of this significantly harmful development to this nationally important Grade I Listed Building along with an appropriate scheme for the restoration of the building once the equipment has been removed. It is accepted that there may now be a requirement for an extraction system of some sorts to serve the authorised use of the



building as a café but this must not be to the detriment of the listed building in any way. In seeking the removal of the existing equipment, a subsequent restoration scheme of the building itself will be required. I accept that the scheme could in itself involve, at least in part, the installation of a more appropriate form of ventilation equipment. This will be subject of further negotiation amongst relevant officers.

5.12 In light of the above considerations the following recommendation is put forward:

**6. Recommendation:**

- 6.1 A Listed Building Enforcement Notice **BE ISSUED** to seek the removal of the unauthorised air conditioning unit and the new flue and air intake unit to the rear of the Grade I listed building along with a suitable scheme of restoration of the building following the removal of the equipment, the detailed wording of which to be agreed with the Director of Central Services following further liaison with relevant Officers.

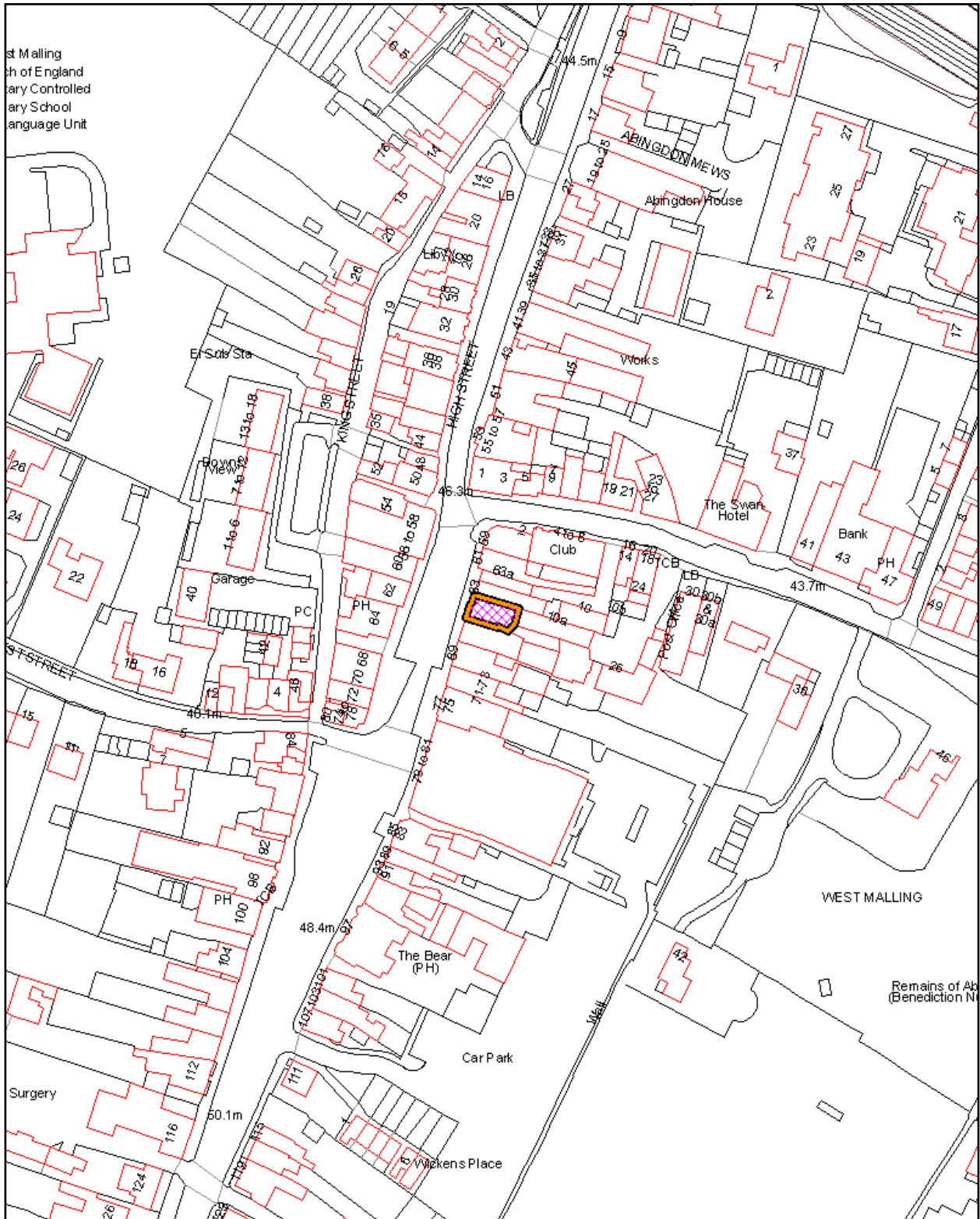
Contact: Richard Edmonds

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# Agenda Item 11

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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